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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,257	01/14/2004	James L. Kroening	ACER-45267	4390
116 7590 05/28/2009 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
IWARERE, OLUSEYE				
ART UNIT		PAPER NUMBER		
3687				
MAIL DATE		DELIVERY MODE		
05/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/757,257

**Applicant(s)**

KROENING, JAMES L.

**Examiner**

OLUSEYE IWARERE

**Art Unit**

3687

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 7-14 and 31-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 15-30 and 39-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-14 and 31-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is in response to the correspondence sent on March 20, 2009. Amendments to the claims entered and considered below.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 20, 2009 has been entered.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 7 – 14 and 31 – 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu (2004/0061715) in view of Spagna (2002/0002468) further in view of Kodama (2004/0034671)**

**As per claims 7 and 31**, Chu discloses a method of operating an image delivery system for delivering a disk image to a computer readable media associated with a target computer system, the image delivery system having a storage device, the method comprising:

generating a bill of materials associated with a target computer system from an order entry portion of the image delivery system (abstract; discusses generating a bill of materials),

dividing the bill of materials into an essential portion and a non-essential portion, the essential portion including any hardware components or software components having an impact on generation of a disk image for the target computer system (abstract discusses organizing parts in a hierarchy from least/lowest replicable/reparable component which is construed as organizing by being essential),

sorting the essential portion of the bill of materials into alphanumeric order to produce a sorted essential portion of the bill of materials (fig. 25 depicts sorting the hierarchical parts of the bill of materials in order),

However, Chu fails to explicitly disclose, performing a key generating function on the sorted essential portion of the bill of materials to generate a unique key identifying the disk image for the target computer system, and using the generated key to determine if the disk image exists on the storage device and incorporating updates into the disk image if the updates are available.

Spagna teaches a method and system for securing local database file of local content stored on end-user system with the features of

performing a key generating function on the sorted essential portion of the bill of materials to generate a unique key identifying the disk image for the target computer system, ([0229] discusses creating a key of the bill of materials content); and using the generated key to determine if the disk image exists on the storage device ([0229] discusses using the key to validate the completeness of all parts); and

Kodama teaches method and apparatus for centralized computer management, with the feature of incorporating updates into the disk image if the updates are available (abstract discusses an updated disk image).

From these teachings of Spagna and Kodama, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Chu to include the key generating function, determination of software configuration taught by Spagna, and incorporating updates into the disk image, taught by Kodama in order to provide validation and a current image of the local disk.

**As per claims 9 and 33**, Chu discloses the claimed invention but fails to explicitly disclose wherein the key generating function includes a 128-bit hash algorithm.

Spagna teaches a method and system for securing local database file of local content stored on end-user system wherein the key generating function includes a 128-bit hash algorithm ([0122] discusses a hash algorithm).

From this teaching of Spagna, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Chu to include the hash algorithm, taught by Spagna, in order to provide encryption means.

**As per claims 10 and 34**, Chu discloses the claimed invention but fails to explicitly disclose wherein the key generating function includes a 128-bit hash algorithm.

Spagna teaches a method and system for securing local database file of local content stored on end-user system wherein the key generating function includes a 128-bit hash algorithm ([0122] discusses a hash algorithm).

From this teaching of Spagna, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Chu to include the hash algorithm, taught by Spagna, in order to provide encryption means.

**As per claims 11 and 35**, Chu discloses wherein the essential portion of the bill of materials includes software-related components ([0043]; discuss software-related components).

**As per claims 12 and 36**, Chu discloses wherein the essential portion of the bill of materials includes software-related components ([0043]; discuss software-related components).

**As per claims 13 and 37**, Chu discloses wherein the at least essential portion of the bill of materials is sorted into ascending alphanumeric sequence (fig. 25 depicts ascending sequence).

**As per claims 14 and 38**, Chu discloses wherein the at least essential portion of the bill of materials is sorted into ascending alphanumeric sequence (fig. 25 depicts ascending sequence).

5. **Claims 8 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu (2004/0061715), Spagna (2002/0002468) and Kodama (2004/0034671) further in view of Nguyen (6,202,070).**

**As per claims 8 and 32**, Chu and Spagna disclose the claimed invention but fail to explicitly disclose, transferring the disk image to the target computer system if the disk image exists on the storage device, and generating a new disk image corresponding to a software configuration of the target computer system if the disk image does not exist on the storage device.

Nguyen teaches a computer manufacturing system architecture comprising the steps of:

transferring the disk image to the target computer system if the disk image exists on the storage device (col. 1, lines 28 – 40; discuss transferring the image), and

generating a new disk image corresponding to a software configuration of the target computer system if the disk image does not exist on the storage device (col. 5, lines 38 – 46; discusses generating new images associated with software configuration).

From this teaching of Nguyen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Chu and Spagna to include the disk image, taught by Nguyen, in order to provide verification.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 7 – 14 and 31 – 38 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEYE IWARERE whose telephone number is (571)270-5112. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on (571)272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OI

/Matthew S Gart/  
Supervisory Patent Examiner, Art Unit 3687